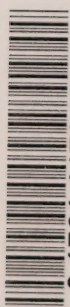


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Custody, Access and Child Support in Canada

Feedback Booklet



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MARCH 2001



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Please note:

The page numbers in this booklet correspond to the pages in the consultation document where questions appear.

To provide your feedback, align the corresponding pages of both documents and mark your answers in this booklet.

In some instances, there are two or more pages in this booklet that corresponds to a single page in the consultation paper. These extra pages are provided to allow more space for your responses.

While some of the questions require that you check one or more boxes, others provide space for an open-ended response.

Once you have completed this booklet, please return it in the enclosed postage-paid envelope to:

IER Planning, Research and
Management Services
7501 Keele Street, Suite 300
Concord, Ontario
L4K 9Z9

**If you have questions about how to
complete the feedback booklet,
please call, toll-free,
1-888-373-2222**

Thank you.

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PART 1: PARENTING AFTER SEPARATION OR DIVORCE

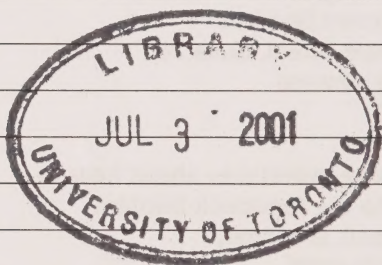
ROLES AND RESPONSIBILITIES OF PARENTS

Looking at the Law

Which of the options described below do you think would best help parents and judges make better decisions about parenting after separation or divorce?

OPTION 1

*Keep Current
Legislative
Terminology*

☐

OPTION 2

*Clarify the
Current Legislative
Terminology: Define
Custody Broadly*



OPTION 3

Clarify the ☐ Current Legislative Terminology: Define Custody Narrowly and Introduce the New Term and Concept of Parental Responsibility

OPTION 4

Replace the
Current Legislative
Terminology: Introduce
the New Term and
Concept of Parental
Responsibility

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OPTION 5

*Replace the
Current Legislative
Terminology: Introduce
the New Term and
Concept of Shared
Parenting*



There are other possible ways the law might guide parenting after separation or divorce. Please describe any other options that you think would be effective.

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Looking at Services

Please check the six services from the list below that you think are most important for helping families involved in separation and divorce.

Information Services

Parent education

☐

Public and family law information centres

☐

Self-help materials, kits or public
information documents on parenting roles

☐

Information programs for children

☐

Support Services or Approaches

Counselling for parents:

☐

Legal aid

☐

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Child advocates or child legal
representatives

☐

Special courts

☐

Supervised access and exchange
centres

☐

Dispute Resolution Services

Mediation

☐

Assessments

☐

Case managers and workers

☐

If you have had any personal experience with any of these services, please comment on how useful the services were in encouraging parents to make their own parenting arrangement, and to focus on the needs and best interests of their children.

Please also describe any other family law services that you think would be useful to help clarify parental roles and responsibilities, and to encourage parents' positive involvement and co-operation.

[illegible]

Looking at the Law

Do you think that adding factors to the “best interests” section of the *Divorce Act* would help people make decisions about children that are in the children’s best interests?

Yes ☐

No ☐

Why?

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[illegible]

If yes, please check the 10 factors from the list below that you think are most important in helping people make decisions that are in the best interests of children.

Factors Related to the Children Themselves

- | | |
|--|--------------------------|
| Children's age and stage of development | <input type="checkbox"/> |
| Children's health | <input type="checkbox"/> |
| Children's special needs | <input type="checkbox"/> |
| Children's cultural, ethnic, and religious or spiritual background | <input type="checkbox"/> |
| Children's views and preferences | <input type="checkbox"/> |
| Children's personalities and abilities to adjust to the new way their parents have arranged to care for them | <input type="checkbox"/> |
| Children's current and future educational requirements | <input type="checkbox"/> |

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Factors Related to the Children's Relationships with Others

Relationships with siblings ☐

Relationships with parents ☐

Relationships with other members of the family ☐

Relationships with any person involved in the children's care and upbringing ☐

Relationships with the community ☐

Factors Related to Parenting of the Children in the Past

History of the parenting of the children ☐

Past conduct of parents that is relevant to their parenting abilities (including violence and abuse in intimate relationships) ☐

Factors Related to the Future of the Children

Ability of parents to meet ongoing and developmental needs ☐

Ability of parents and other involved people to co-operate ☐

Potential for future conflict ☐

Potential for future violence affecting the child ☐

Please describe any other key factors that you think would help people make decisions that are in the best interests of children.

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FAMILY VIOLENCE

Looking at the Law

There are several approaches governments could take to promote child-centred decision-making in situations of violence to ensure the safety of children and others. Which of the following approaches would best serve that purpose?

Make no change to the current law. ☐

Include a general statement in the law that acknowledges that children who are victims of violence or who witness violence are negatively affected, and that family violence poses a serious safety concern for parents and children. ☐

Make family violence a specific factor that must be considered when looking at children's best interests, and when making parenting decisions. ☐

Establish a rebuttable presumption of limited parental contact and a limited decision-making role for a parent who has committed family violence. ☐

Restrict the impact of the "maximum contact" provision by moving the principle from section 16(10) of the *Divorce Act* into the section that deals with the "best interests of the child." ☐

☐

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[illegible]

Looking at Services


Please check the six services from the list below that you think are most effective in ensuring that the issue of family violence is addressed when parenting decisions are being made after separation or divorce.

Information and Education Services

Education on family violence for parents and children ☐

Information for professionals 

Support Services

Counselling for children Counselling for parents 

Legal aid

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HIGH-CONFLICT RELATIONSHIPS

Looking at the Law

There are a number of approaches governments could take to promote child-centred decision-making in high-conflict cases. Which of the following approaches would best do this?

The law should include no specific provision. ☐
Changes to address high-conflict cases could have negative effects on the majority of parents who co-operate. The focus should instead be on making changes to support parents who can reach co-operative solutions.

The law should say that, when judges are concerned about ongoing high-conflict parenting disputes, they should be able to set out in the court order very specific and detailed parenting arrangements to provide a regular routine and autonomy for each parent's time with the children. ☐

The law should say that, when judges are concerned about ongoing high-conflict parenting disputes, they should be able to specify in the court order a dispute-resolution mechanism that the parents are to use. ☐

The law should discourage arrangements requiring co-operation and joint decision-making when there are concerns about ongoing high-conflict parenting disputes. The law could say that these arrangements would not be in children's best interests.

The law should include a combination of ☐ the above approaches. (Please specify which of the approaches you would combine.)

[illegible]

Please describe any other legislative approaches that you think would be helpful to address high conflict situations.

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Looking at Services

Please check the six services from the list below that you think would be most effective in helping parents avoid high levels of conflict and minimizing the harmful effects of conflict on children.

Information and Education Services

Parent education ☐

Education and support groups for children ☐

Services to Promote Prompt Handling of High-Conflict Cases

Intake co-ordinators ☐

Specialized case management and controlled court procedures for high-conflict cases, along with access to clinical expertise to facilitate faster final decisions. ☐

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Support Services for
Parents and Children

Legal aid ☐

Supervised access and exchange centres ☐

Therapeutic access centres ☐

Specialized therapeutic mediation ☐

Initial and ongoing psychological
intervention and assessments ☐

Programs to promote a self-managed
parenting plan ☐

If you have had any personal experience with any of these services, please comment on how useful the services were in reducing conflict and helping parents focus on the needs of the children.

Please describe any other family law services that you think would be useful to reduce conflict and help parents focus on the needs of the children.

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Workbooks, self-help kits and parenting plan models

☐

Guidelines or training for mediators

☐

Specific training for lawyers and others who work with children

☐

Legal or other representation for children involved in disputes about parenting after separation or divorce.

☐

Special courts

☐

Dispute-resolution processes such as mediation

☐

If you have had any personal experience with any of these services please comment on how useful the services were in ensuring that children's perspectives were considered when decisions were being made about the way parents would care for them.

Please describe any other family law services that you think would be useful to help ensure children's perspectives are considered when parenting decisions are being made.

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In what circumstances should legal or other representation be provided for children?

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MEETING ACCESS
RESPONSIBILITIES

Looking at Services

Please check (any one or more) of the following services that you think would be most effective in encouraging parents to live up to their parenting responsibilities.

Parent education ☐

Parenting skills courses ☐

Counselling ☐

Model access orders ☐

Public education ☐

Early identification, screening and
assessment of difficult cases ☐

Assessment ☐

Supervised access and exchange centres ☐

Legal aid ☐

Special courts ☐

If you have had any personal experience with any of these services, please comment on how useful the services were in ensuring parents lived up to their parenting responsibilities.

Please describe any other family law services that you think would be useful to help ensure parents fulfill their parenting responsibilities.

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Looking at the Law

Please check (any one or more) of the following legislative approaches that you think would be most effective in encouraging compliance with access orders.

Require the non-complying parent to give the other parent access to the children to make up for the time he or she missed. ☐

Require the non-complying parent to deposit money or other valuables with the court, which the parent would forfeit if he or she fails to allow access. ☐

Require either parent and/or the children to attend an educational seminar, parenting course, counselling or other similar type of session, and provide proof that they did. ☐

Allow the judge to appoint a mediator to help resolve the dispute. ☐

Require the non-complying parent to reimburse the other parent for any costs he or she has as a result of the denial of access. ☐

Fine the non-complying parent an amount for each day that access has been or is being denied, up to a maximum. If the parent does not pay, the judge may order that he or she be sent to prison for up to a maximum time. ☐

Imprison the non-complying parent continuously or intermittently, up to a maximum time, for denying access.

1

Direct an enforcement officer to help a parent obtain access to the children when the judge is satisfied, based on the non-complying parent's history of denying access or other grounds, that he or she will deny access.



Direct either or both parents to do anything the judge considers appropriate in the circumstances to encourage them to comply with the access order.

1

Please describe any other legislative approaches that you think would be useful to encourage parents to fulfill their parenting responsibilities.

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PART 2:
CHILD SUPPORT

Child Support in Shared
Custody Situations

Questions

What factors do you think judges should look at when deciding whether the shared custody rule applies?

Judges should look only at the amount of time each parent spends with the children. ☐

Judges should look at several factors, including time. Other factors could include whether the child has two main homes, and how parents share the children's expenses and child-care responsibilities such as direct care and supervision, arrangements for health care, school, daycare, out-of-school care and extracurricular activities, supervision of homework, and purchase and maintenance of clothing. ☐

Judges should not look at the amount of time each parent spends with the children. They should look only at factors related to how the parents share responsibility for the children's expenses and share child-care responsibilities, such as those described above. ☐

Other (please explain) ☐

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If time continues to be a factor that judges look at when deciding whether the shared custody rule applies, what is the best way to define it?

The children must spend at least 40 percent of their time with each parent. ☐

The children must spend "substantially equal" time with each parent. ☐

Other (please explain) ☐

Why?

Which of the methods below for determining the child support amount do you think would work the best for parents in shared custody situations? You may choose more than one of these methods.

Others argue that the child support amount should be set to make the standard of living of both households the same.

Many people think that a formula would be the best way to recognize the increased costs of a shared custody arrangement. ☐

Others believe that judges should have discretion, as they do now, when setting the amount of support, because a formula may not apply fairly across the range of the many parenting arrangements families with shared custody have.

Another option is for judges to look at lists the parents prepare of their expenses related to the children. This is what judges did before the child support guidelines were introduced.

Why?

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Please describe any other method you think would be effective and explain why it would work.

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IMPACT OF ACCESS COSTS ON CHILD SUPPORT AMOUNTS

Should the child support guidelines be changed to introduce a new way to take into account the costs related to unusually high access time when determining child support?

Yes ☐

No ☐


Why?

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[illegible]

If yes, how should the child support amount be calculated?

It should be left to the judge's discretion. 

There should be a formula. The judge should have no discretion.

There should be a formula to help the judge, but he or she should still have discretion whether or not to change the child support amount.

Other (please explain) ☐

Why?

Should the child support guidelines be changed to introduce a new way to take into account the costs related to unusually low access time when determining child support?

Yes ☐

No ☐

Why?

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If yes, how should the child support amount be calculated?

It should be left to the judge's discretion ☐

There should be a formula. The judge should have no discretion. ☐

There should be a formula to help the judge, but he or she should still have discretion whether or not to change the child support amount. ☐

Other (please explain). ☐

Why?

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Access Expenses

Should the child support guidelines provide a way, other than the undue-hardship process, to calculate the child support amount when there are high access expenses, or should judges be allowed to decide on an amount they feel is appropriate?

The guidelines should provide a way to calculate child support in these situations. ☐

Please describe a method you think would be effective and why it would work.

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CHILD SUPPORT FOR CHILDREN AT OR OVER THE AGE OF MAJORITY

Should the child support guidelines allow paying parents to pay child support directly to children at or over than the age of majority?

Yes ☐

No ☐

Why?

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[illegible]

What factors should judges consider when deciding whether the paying parent should pay support directly to children?

[illegible]

[illegible]

Should the children be able to choose whether to receive support directly from the paying parent or not?

Yes ☐

No ☐

Why?

[illegible]

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Is it important for the receiving parent to agree that the paying parent will pay support directly to the children?

Yes ☐

No ☐

Why?

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[illegible]

Disclosure of Information

Do you think the child support guidelines should be changed so that either the receiving parent or the children at or over the age of majority must provide the paying parent with information about the **status of the children** (for example, about their schooling, living arrangements or employment situation) once a year? This would apply in all cases when support is to be paid for children at or over the age of majority, not just in those cases that include special expenses.

Yes ☐

No ☐

Why?

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Please describe any other option for addressing this issue that you think would be effective and explain why it would work.

[illegible]

Do you think the child support guidelines should be changed so that either the receiving parent or the children at or over the age of majority must provide the paying parent with information about the children's finances once a year? (This would apply in all cases when support is to be paid for children at or over the age of majority, not just in those that include special expenses.)

Yes ☐

No

Why?

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Please describe any other option for addressing this issue that you think would be effective and explain why it would work.

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CHILD SUPPORT OBLIGATIONS OF A SPOUSE WHO STANDS IN PLACE OF A PARENT

Should the child support guidelines be changed to provide more direction to parents and judges about whether a step-parent should pay child support, and how much he or she should pay?

Yes ☐

No ☐

Why?

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There is a number of ways judges could figure out how much support a step-parent should pay. Two ways are:

- The step-parent could pay the table amount minus the amount the natural parent is paying.
- Each paying parent, including the step-parent, could pay the table amount for his or her income level.

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Do you think either of these approaches would be effective?

Yes ☐

No ☐

Why?

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[illegible]

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Additional Information

Please provide some additional information about yourself. Mark all that apply.

Are you a:

- ☐ Professional working in a field related to custody, access and/or child support

Please specify: _____

- ☐ Parent receiving financial child support

- ☐ Parent providing financial child support

- ☐ Other, please specify: _____

If you are a parent that has divorced or separated, does your child reside with you:

- ☐ 50% of the time or more

- ☐ Less than 50% of the time with some form of access

- ☐ Less than 50% of the time with no access

- ☐ In a shared custody arrangement

- ☐ Other, please specify:

Age Group

- ☐ Under 25

- ☐ 26-35

- ☐ 36-45

- ☐ 46-55

- ☐ 56-65

- ☐ 66 or over

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Conclusion

Thank you for taking the time to provide your feedback on the issues raised in *Putting Children's Interests First: Custody, Access and Child Support in Canada*. Federal, provincial and territorial governments will consider this information carefully when reviewing laws and services in the areas of custody, access and child support.

Please return this booklet in the enclosed postage-paid envelope to:

IER Planning, Research and Management
Services
7501 Keele Street, Suite 300
Concord, Ontario
L4K 9Z9

Input on custody, access and child support issues is welcome any time, however we would appreciate that you return your feedback booklet by **June 15, 2001**.

Please call 1-888-373-2222 if you have general questions about this consultation process. Information is also available on the Department of Justice Canada's web site at <http://www.canada.justice.gc.ca/en/ps/cca/index.html>

